UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 03-22046-CIV-JORDAN
Magistrate Judge Brown

JUAN A. SALINAS and
LUCILA FUENTES

Plaintiffs,

vs.

SUE ANN RAMSEY and
HILDA RAMSEY

Defendants.

______________/

DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT

Defendants, SUE ANN RAMSEY and HILDA RAMSEY, answer the Complaint of Plaintiffs JUAN A. SALINAS ("Salinas") and LUCILA FUENTES ("Fuentes"), and state as follows:

1. Without acknowledging the existence of the remedies sought or Plaintiffs' entitlement to relief, Defendants admit that this lawsuit purports to be an action under the Fair Labor Standards Act, as amended, 29 U.S.C. §201, *et. seq.* (hereinafter referred to as the "FLSA").

2. Denied.

3. Denied.

4. Denied.

5. Denied.

6. Denied.

7. Denied insofar as 29 U.S.C. §206 (a)(1) speaks for itself.

8. Denied insofar as 29 U.S.C. §207 (a)(1) speaks for itself.

9. Denied.

10. Denied.

11. Denied.

12. Denied.

Further responding to Paragraphs 1 through 12 of the Complaint, all allegations not specifically admitted are denied.

AFFIRMATIVE DEFENSES

A. As and for an affirmative defense, Defendants assert that they complied with all of their obligations under the FLSA and all applicable regulations.

B. As and for an affirmative defense, Defendants assert that assuming, *arguendo*, that Plaintiffs prevail in this action, they would not be entitled to liquidated damages because all acts and/or omissions of Defendants were done in good faith and Defendants have reasonable grounds for believing that any acts or omissions were done in good faith and not in violation of the FLSA.

C. As and for an affirmative defense, Defendants assert that they are entitled to a reasonable award of attorney's fees and costs incurred in defending this litigation because it is frivolous, vexatious, brought in bad faith, and the allegations in the Complaint are neither grounded in fact after reasonable inquiry nor warranted by existing law or any good faith argument for modification or reversal of existing law.

D. As and for an affirmative defense, Defendants assert that the Complaint fails to state a claim under the FLSA.

E. As and for an affirmative defense, Defendants assert that SALINAS is not covered by the overtime compensation provisions set forth in the FLSA.

F. As and for affirmative defenses, Defendants assert that FUENTES is not covered by the overtime compensation provisions set forth in the FLSA.

G. As and for an affirmative defense, Defendants assert that SALINAS' action is barred by the applicable statute of limitations.

H. As and for an affirmative defense, Defendants assert that FUENTES' action is barred by the applicable statute of limitations.

I. As and for an affirmative defense, Defendants assert that SALINAS is not entitled to overtime under the FLSA for those weeks he is unable to satisfy the burden of proving he performed work in excess of 40 hours.

J. As and for an affirmative defense, Defendants assert that FUENTES is not entitled to overtime under the FLSA for those weeks she is unable to satisfy the burden of proving she performed work in excess of 40 hours

K. As and for an affirmative defense, Defendants assert that the Complaint fails to state a claim upon which relief may be granted as it fails to sufficiently identify how many hours were worked each day and how many hours of overtime are allegedly owed.

L. As and for an affirmative defense, Defendants assert that accord and satisfaction controls the relationship between the parties.

M. As and for an affirmative defense, Defendants assert that Plaintiffs are estopped from bringing this action as they failed to accurately record their time worked, including overtime, if any.

N. As and for an affirmative defense, Defendants assert that Plaintiffs and Defendants engaged in a mutual mistake of law and/or fact related to the FLSA.

O. As and for an affirmative defense, Defendants assert that they had no actual or constructive knowledge of Plaintiffs' overtime work, if any, and thus Plaintiffs are not entitled to recover uncompensated overtime pursuant to the FLSA.

WHEREFORE, Defendants, SUE ANN RAMSEY and HILDA RAMSEY, respectfully request that this Court dismiss the Complaint with prejudice, enter judgment in favor of Defendants, and grant such other and further relief, including an award of reasonable attorney's fees and costs, as this Court deems just and proper.

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 16th day of September 2003 to: J.H. Zindell, 300 71st Street, Suite 605, Miami Beach, FL 33141.

ABRAMS ANTON P.A.
Attorneys for Defendants
2021 Tyler Street/P.O. Box 229010
Hollywood, Florida 33022-9010
954-921-5500 / 305-940-8440
954-925-7013/fax
prs@abramsanton.com

BY: ______________________
PETER R. SIEGEL
Florida Bar #988634

PRS:mm
H:\lib\edsi\docs\RAMSA\0001\PLDG\BR3636.WPD